

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Chris Kovanes, Programs Administrator, 797-1102

SUBJECT: Resolution

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER CORPORATION, WHEREBY THE TOWN WILL ALLOW AN AMENDMENT TO BE CREATED ONTO THE ORIGINAL LEASE AGREEMENT WITH OMNIPOINT COMMUNICATIONS DEF OPERATIONS, INC., ALLOWING VERIZON TO CO-LOCATE ON THE TELECOMMUNICATIONS TOWER AND PLACEMENT OF ADDITIONAL UNMANNED TELECOMMUNICATIONS FACILITY LOCATED AT THE 3600 S. FLAMINGO ROAD, DAVIE FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: In November of 1997 The Town of Davie and Omnipoint Communications came to an agreement for the allowance of Omnipoint Communications to lease space from the Town of Davie at 3600 S. Flamingo Road for the placement of a telecommunications tower. This tower is in full operation presently. The original agreement concluded terms of an initial period of 10 years with three 5 year option so that the overall term of the lease could be 25 years.

The tower was constructed with the intent of co-location. American Tower Corporation has now purchased this tower from Omnipoint Communications and has a desiring co-locating firm, Verizon, to co-locate.

At this present time, American Tower Inc. has asked for this assurance that co-location is permitted then the firm will negotiate all terms with Verizon and notify the Town with contractual terms. The Town is granted 50% of all revenue gained from co-location.

Staff has also blocked any permits from being issued until a final contract from Verizon to American Tower Inc. has been examined by Town staff and fully accepted.

PREVIOUS ACTIONS: Not Applicable.

CONCURRENCES: Not Applicable.

FISCAL IMPACT: Not Applicable.

ADDITIONAL COMMENTS: Not Applicable.

RECOMMENDATION(S): Motion to approve the resolution.

Attachment(s): Resolution,
Amendment to Lease Agreement

RESOLUTION _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER CORPORATION, WHEREBY THE TOWN WILL ALLOW AN AMENDMENT TO BE CREATED ONTO THE ORIGINAL LEASE AGREEMENT WITH OMNIPOINT COMMUNICATIONS DEF OPERATIONS, INC., ALLOWING VERIZON TO CO-LOCATE ON THE TELECOMMUNICATIONS TOWER AND PLACEMENT OF ADDITIONAL UNMANNED TELECOMMUNICATIONS FACILITY LOCATED AT THE 3600 S. FLAMINGO ROAD, DAVIE FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, LESSOR and OMNIPOINT entered into that certain Lease Agreement ("Agreement") dated the 19th day of November, 1997, which by this reference is incorporated herein and made a part hereof, whereby LESSOR leased to OMNIPOINT POINT that certain real property in Broward County, Florida, located at 3600 S. Flamingo Road, Davie, Florida; and

WHEREAS, LESSOR and TENANT desire to amend the Lease to allow for additional carriers to co-locate at the tower site;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the recitals set forth above are true and correct and are made a part of this resolution.

SECTION 2. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2001.

Attest:

MAYOR/COUNCIL MEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2001.

AMERICAN TOWER

Tenant Site: 91535/Davie Fire Station
Town of Davie Reference: Davie Fire Station

SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment to Lease Agreement ("Amendment") is entered into on the ____ day of _____, 2001, by and between TOWN OF DAVIE, a Municipal Corporation of the State of Florida, whose address is 6591 Orange Drive, Davie, Florida 33314, hereinafter designated "LESSOR", and UNISITE/OMNIPOINTE FL TOWER VENTURE, L.L.C., by and through its manager, UNISITE, Inc., a Delaware Corporation, hereinafter designated "TENANT", partial successor in interest to OMNIPOINTE COMMUNICATIONS DEF OPERATIONS, INC., a Delaware Corporation ("OMNIPOINTE"), whose address is 3200 Cobb Galleria Parkway, Suite 205, Atlanta, Georgia 30339.

WHEREAS, LESSOR and OMNIPOINTE entered into that certain Lease Agreement ("Agreement") dated November 5, 1997, which by this reference is incorporated herein and made a part hereof, whereby LESSOR leases to OMNIPOINTE that certain real property in Broward County, Florida, located at 3600 S. Flamingo Road, Davie, Florida 33330 ("Property") more particularly described in the Agreement; and

WHEREAS, LESSOR and OMNIPOINTE entered into a First Amendment to Lease Agreement ("Amendment") Dated October 11, 2000 which by this reference is incorporated herein and made a part hereof, whereby Lessor and Tenant amended the Agreement to allow for additional carriers to collocate at the tower site; and

WHEREAS, LESSOR and TENANT desire to amend the Agreement and Amendment to allow for an additional carrier to collocate at the tower site.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Agreement as follows:

1. **Paragraph 1:** Delete the first sentence of this paragraph and replace with the following:

"LESSOR hereby leases to TENANT that certain parcel of real property, containing approximately 2,578 square feet situated at 3600 S. Flamingo Road, Davie, Florida 33330, Broward County, together with the non-exclusive right for ingress and egress, seven (7) days a week, twenty-four hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, cable, conduits, and pipes over, under or along a 12 foot wide right-of-way, extending from the nearest public right-of-way to the Lease parcel, said Lease Parcel and right-of-way for access being substantially as described herein in Exhibit "A" and as shown enclosed within exhibit "A" attached hereto."

2. **Paragraph 7:** Add the following language to Paragraph 7 of the Lease Agreement between the Town of Davie, Florida and OMNIPOINT Communications DEF Operations, Inc:

"Both the LESSOR and TENANT hereby acknowledge and agree that the following additional wireless communications provider may be allowed to co-locate equipment on the monopole installed by TENANT,

AMERICAN TOWER

at a height of one hundred ten (110) feet. In consideration for its consent to such co-location at the tower site, LESSOR is to receive 50% of the co-location revenue received by TENANT from VERIZON.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first above written and the Amendment shall be attached to and made a part of the Agreement.

LESSOR:

Signed, sealed and delivered
Before the following witnesses:

TOWN OF DAVIE,
a municipal corporation

Witness

By: _____ (SEAL)
Print Name: _____
Title: _____

Print Name

Attest:

Witness

By: _____
Print Name: _____
Title: _____

Print Name

Approved as to Form:

By: _____
Print Name: Monroe D. Kiar
Title: Town Attorney

TENANT:

UNISITE/OMNIPOLITE FL TOWER
VENTURE, L.L.C.

By: Unisite, Inc., its manager

By: J P Bourne (SEAL)
Name: James P. Bourne
Title: Regional Vice President

Signed, sealed and delivered
Before the following witnesses:

Mary Tomasik
Witness

Mary Tomasik
Print Name

Paula Mullen
Witness

Paula Mullen
Print Name